

THE HONORABLE JAMAL N. WHITEHEAD

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

IN RE VALVE ANTITRUST LITIGATION

Civil Action No. 2:21-cv-00563-JNW

DECLARATION OF ADAM FOSSA IN
SUPPORT OF MICROSOFT
CORPORATION'S RESPONSE TO
VALVE CORPORATION'S MOTION TO
SEAL

I, Adam Fossa, declare the following:

1. I am currently the General Manager of the Microsoft Store on Xbox and Windows at Microsoft Corporation ("Microsoft"). The facts stated in this declaration are based on my own personal knowledge and, if called as a witness, I could and would testify to those facts.

2. In my current role at Microsoft, which owns and operates the Microsoft Store, I lead the team responsible for business management of the Microsoft Store digital game category on Xbox and Windows. I have been employed with Microsoft since January 2004. Based on my work experience, I am familiar with Microsoft's business strategies and financial data as it relates to the Microsoft Store. Microsoft keeps such information confidential to protect itself and its partners from potential harm.

DECLARATION OF ADAM FOSSA - 1 -
(Case No.2:21-cv-00563 JNW)

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1 3. I understand that Valve Corporation (“Valve”) filed under seal, with proposed
2 redactions, the Dkt. 450.2 & Dkt. 454.2, January 27, 2025 Expert Report of Steven Schwartz
3 (“Schwartz January Report”); the Dkt. 450.13 & Dkt. 454.8 March 7, 2025 Expert Report of Steven
4 Schwartz (“Schwartz March Report”); the Dkt. 450.1 & Dkt. 454.11 April 25, 2025 Expert Report
5 of Steven Schwartz (“Schwartz April Report”); the Dkt. 450.11 Expert Report of Ashley Langer
6 (“Langer Report”); the Dkt. 450.3 & Dkt. 454.4 Expert Report of Lesley Chiou (“Chiou Report”);
7 and the Dkt. 456.3 May 5, 2025 Corrected Reply Expert Report of Gautam Gowrisankaran
8 (“Gowrisankaran Reply Report”), which all contain Microsoft confidential information, in support
9 of its Motion for Summary Judgment.

10 4. I further understand that Microsoft is filing a Response to Valve’s Motion to Seal,
11 and I make this declaration in support of Microsoft’s response. I have reviewed information from
12 portions of the above-listed reports that were provided to Microsoft by Valve and explain below
13 why those portions of the reports contain sensitive and highly confidential information that would
14 cause serious harm to Microsoft if publicly released. Attached to this declaration as **Exhibit A** is
15 a table detailing the information from those reports that Microsoft requests remain under seal.
16 Microsoft treats this information sensitively even within its own organization, and only discloses
17 it to a select group of individuals on a need-to-know basis.

18 5. The bolded portions of the Schwartz January Report and the Langer Report,
19 reflected in **Rows 2 and 3 of Exhibit A**, reflect deposition testimony of Adam Fossa on behalf of
20 Microsoft from January 29, 2024. This testimony includes non-public estimates of the Microsoft
21 Store’s costs. This testimony would result in harm if publicly disclosed. Knowledge of the
22 Microsoft Store’s estimated costs, if made available to Microsoft’s competitors, could be used not
23 only to the detriment of Microsoft, but could also cause harm to competition. In the regular course
24 of business, Microsoft does not track its costs according to storefront, thus the elicited testimony
25 is not based on any detailed analysis performed by Microsoft such as would exist in an audited
26 financial statement and may not be accurate. To the extent that the testimony does not reflect an

1 accurate cost estimate, if disclosed, it may cause confusion for financial advisors and Microsoft's
2 investors.

3 6. The bolded portions of the Gowrisankaran Reply Report, reflected in **Row 4 of**
4 **Exhibit A**, also reflects deposition testimony of Adam Fossa on behalf of Microsoft from January
5 29, 2024. This testimony includes information, including pricing information, about Microsoft's
6 token monetization model. This testimony would also result in harm if publicly disclosed. First,
7 the public release of this information could reveal proprietary aspects of Microsoft's pricing and
8 distribution framework, which competitors could exploit to reverse engineer Microsoft's
9 commercial terms or undercut its positioning with key retail partners. Second, exposing the
10 specifics of Microsoft's token monetization model could erode publisher trust and compromise
11 Microsoft's ability to negotiate favorable terms in future partnerships.

12 7. Supplemental Attachment E-8 to the Schwartz March Report, identified in **Row 5**
13 **of Exhibit A**, is confidential and would result in harm if publicly disclosed. Microsoft understands
14 that Attachment E-8 reflects information found in Attachments X-4 and X-5, which are also
15 confidential and, to the extent such information is disclosed in the Schwartz March Report, it also
16 would result in harm if publicly disclosed.

17 a. Attachment E-8 includes information that reflects non-public financial data
18 regarding Microsoft's U.S. and non-U.S. third-party gaming revenue for a five-year
19 period. Microsoft does not share this information outside the Microsoft Store and
20 does so even within the Microsoft Store on a need-to-know basis only. If the third-
21 party gaming information in this attachment were disclosed, third-party gaming
22 partners could use the information to undercut Microsoft's position in distribution
23 negotiations, particularly with respect to Microsoft's subscription gaming services.
24 Disclosure of this information could also harm Microsoft's third-party gaming
25 partners themselves, as it includes data relating to the sales of their individual
26

1 products and could be used by their own competitors or other distributors to their
2 detriment.

3 b. Attachment X-4 includes non-public financial data regarding Microsoft's first and
4 third-party U.S. gaming revenue from FY 2017-FY 2023 down to the product level,
5 which includes title-specific performance information about the Microsoft Store's
6 gaming partners. Microsoft does not share this information outside the Microsoft
7 Store and does so even within the Microsoft Store on a need-to-know basis only.
8 Outside of the Microsoft Store, Microsoft shares only anonymized and aggregate
9 performance information with its gaming partners, which include Microsoft's first-
10 and second- gaming publishers. If the non-anonymized and non-aggregated title-
11 specific performance information were disclosed, gaming partners could use the
12 information to undercut Microsoft's position in distribution negotiations,
13 particularly with respect to Microsoft's subscription gaming services. The gaming
14 revenue information also discloses Microsoft's gaming business strategy, including
15 growth opportunities in certain sectors of the gaming industry and for certain types
16 of gaming products. If the revenue information were disclosed, competitors could
17 use the information to identify new opportunities in which they could undercut
18 Microsoft. Disclosure of this information could also harm Microsoft's third-party
19 gaming partners themselves, as it includes data relating to the sales of their
20 individual products and could be used by their own competitors or other distributors
21 to their detriment.

22 c. Attachment X-5 to the Schwartz Report includes non-public financial data
23 regarding Microsoft's first and third-party non-U.S. (referred to as rest of world or
24 "ROW") gaming revenue from FY 2017-FY 2023 down to the product level, which
25 includes title-specific performance information about the Microsoft Store's gaming
26 partners. Microsoft does not share this information outside the Microsoft Store and

1 does so even within the Microsoft Store on a need-to-know basis only. Outside of
2 the Microsoft Store, Microsoft shares only anonymized and aggregate performance
3 information with its gaming partners, which include Microsoft's first- and second-
4 party gaming publishers. If the non-anonymized and non-aggregated title-specific
5 performance information at issue were disclosed, gaming partners could use the
6 information to undercut Microsoft's position in distribution negotiations,
7 particularly with respect to Microsoft's subscription gaming services. The gaming
8 revenue information also discloses Microsoft's gaming business strategy, including
9 growth opportunities in certain sectors of the gaming industry and for certain types
10 of gaming products. If the revenue information were disclosed, competitors could
11 use the information to identify new opportunities in which they could undercut
12 Microsoft. Disclosure of this information could also harm Microsoft's third-party
13 gaming partners themselves, as it includes data relating to the sales of their
14 individual products and could be used by their own competitors or other distributors
15 to their detriment.

16 8. The bolded portions of the Chiou Report and the Schwartz April Report, reflected
17 in **Rows 6, 7, and 8 of Exhibit A**, reflect information from Attachment E-1 to the Schwartz March
18 Report that is confidential and would result in harm if publicly disclosed. The highlighted
19 information reflects non-public financial data regarding Microsoft's third-party transaction values
20 for a five-year period. Microsoft does not share this information outside the Microsoft Store and
21 does so even within the Microsoft Store on a need-to-know basis only. If the third-party gaming
22 information reflected in Attachment E-1 were publicly disclosed, third-party gaming partners
23 could use it to undercut Microsoft's position in distribution negotiations, particularly with respect
24 to Microsoft's subscription gaming services. Disclosure of this information could also harm
25 Microsoft's third-party gaming partners themselves, as it includes data relating to the sales of their
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1 individual products and could be used by their own competitors or other distributors to their
2 detriment.

3 I declare under the penalty of perjury of the laws of the United States of America that the
4 foregoing is true and correct.

5 Executed this August 20, 2025 in Snoqualamie, WA.

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7 Adam Fossa
8 DocuSigned By: Adam Fossa

9 Adam Fossa
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EXHIBIT A

EXHIBIT FILED UNDER SEAL